

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

YOLANDA RENEE GALLARDO,

Plaintiff,

v.

ACTING COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

No. 1:21-cv-00372-SKO

**ORDER DIRECTING CLERK OF COURT
TO CLOSE CASE**

(Doc. 18)

On November 23, 2021, the parties filed a joint “Stipulation for Dismissal.”¹ (Doc. 18.) Federal Rule of Civil Procedure 41(a)(1)(A) provides:

[T]he plaintiff may dismiss an action without a court order by filing:
(i) a notice of dismissal before the opposing party serves either an answer to a motion for summary judgment, or (ii) a stipulation of dismissal signed by all parties who have appeared.

Fed. R. Civ. P. 41(a)(1)(A). Rule 41 thus allows the parties to dismiss an action voluntarily, after service of an answer, by filing a written stipulation to dismiss signed by all of the parties who have appeared, although an oral stipulation in open court will also suffice. *See Eitel v. McCool*, 782 F.2d 1470, 1472-73 (9th Cir. 1986).

Once the stipulation between the parties who have appeared is properly filed or made in open court, no order of the court is necessary to effectuate dismissal. Case law concerning stipulated dismissals under Rule 41(a)(1)(A)(ii) is clear that the entry of such a stipulation of dismissal is effective automatically and does not require judicial approval. *Commercial Space*

¹ The Stipulation for Dismissal does not specify the nature of the dismissal; thus, it is without prejudice. Fed. R. Civ. P. 41(a)(1)(B) (“Unless the notice or stipulation states otherwise, the dismissal is without prejudice.”).

1 *Mgmt. Co. v. Boeing Co.*, 193 F.3d 1074, 1077 (9th Cir. 1999).

2 Because the parties have filed a stipulation for dismissal of this case under Rule
3 41(a)(1)(A)(ii) that is signed by all parties who have made an appearance, this case has
4 terminated. Fed. R. Civ. P. 41(a)(1)(A)(ii). Accordingly, IT IS HEREBY ORDERED that the
5 Clerk of Court close this case.

6
7 IT IS SO ORDERED.

8 Dated: **November 24, 2021**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE